

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

R.S.A. No. 4112 of 2003
Date of Decision : 1.10.2007

DHBVNL & Anr.

.....Appellants

Versus

Dr. R.S. Agnihotri.

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.B.R. Vohra, Advocate
for the appellants.

VINOD K. SHARMA, J. (ORAL)

This regular second appeal has been filed against the judgments and decrees passed by the learned Courts below vide which suit filed by the plaintiff challenging the additional demand made by the appellants defendant, has been ordered to be decreed.

The learned Courts below on appreciation of evidence have recorded a concurrent finding of fact that the additional demand raised was for the period exceeding statutory period of six months. Learned Courts below have also recorded a concurrent finding of fact that no opportunity of hearing has been given to the respondent for creating additional demand. The observation was also made that adjudication of the dispute regarding meter being defected was not referred to the Chief Electrical Inspector as provided under Section 26 of the Indian Electricity Act, 1910.

The learned counsel appearing on behalf of the appellants contends that the judgments and decrees passed by the learned Courts below

cannot be sustained as the basis for passing the decree is non-referring the dispute to the Chief Electrical Inspector. The contention of the learned counsel for the appellants, therefore, is that Section 26 of the Indian Electricity Act, 1910 is in the nature of settlement of dispute by arbitration in which either of the party could have gone and, therefore, the suit of the plaintiff respondent could not have been decreed only on this ground. Though the contentions seem to be right, however, in the present case it may be noticed that this was not the only ground for decreeing the suit. The suit in fact has been decreed by holding that the demand raised was totally illegal and contrary to the statutory provisions of law as it was not open to the defendant appellants to raise additional demand beyond a period of six months i.e. the statutory period prescribed. The other reason for decreeing the suit was that the additional demand was raised without complying with the principles of natural justice. However, the learned counsel for the appellants have not been able to controvert this finding.

Consequently, there is no illegality or impropriety in the order passed by the learned Courts below which may call for interference by this Court in regular second appeal.

Dismissed.

1.10.2007
'sp'

(VINOD K. SHARMA)
JUDGE